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‘Reaching the Heights for the Rights of the Child’: The Council of Europe Strategy for the Rights of the Child 2016-2020

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The Council of Europe protects and promotes human rights, which includes the rights of the child.¹ These form the opening words, as well as the spirit, of the new Council of Europe Strategy for the Rights of the Child. The Strategy will run for six years, from 2016-21, and constitutes the third Strategy for the Rights of the Child.² It forms part of the Council of Europe’s Building a Europe for and with Children+programme, which aims to protect and mainstream the rights of the child in Council of Europe member States.

The Strategy is based upon human rights protections that are safeguarded by the European Convention on Human Rights, the United Nations Convention on the Rights of the Child (UNCRC) and through other international human rights standards. It takes full account of civil and political, as well as economic, social and cultural human rights, and seeks to ensure that these rights are made a reality for children across the Council of Europe region. In particular, the Strategy takes into account the general principles of the UNCRC, namely: non-discrimination (Article 2), the best interests of the child (Article 3), the right to life, survival and development (Article 6) and the right to be heard (Article 12).

¹ The Council of Europe Strategy for the Rights of the Child 2016-2021 [1]: available at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168066cff8>.

² Previous Strategies include the Stockholm Strategy of 2009-2011, available at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168045d226>, and the Monaco Strategy of 2012-2015, available at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168045d224>.



Tara Beattie

The Strategy was formed through consultation with actors and stakeholders at all levels, including member States, civil society, international organisations, and children themselves. This process was guided by the Committee of Experts on the Council of Europe Strategy for the Rights of the Child (DECS-ENF).

1. Progress achieved

Previous Strategies have resulted in significant progress within the arena of children’s rights.³ In particular, legislative and policy change has been encouraged through the creation of two binding and 18 non-binding standards on children’s rights at the Council of Europe level. These include the Convention on the Adoption of Children,⁴ and the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention);⁵ as well as, notably the Child-Friendly Guidelines on Justice.⁶ The monitoring role of the Council of Europe has been furthered by the collection of data by at least eight monitoring and other mechanisms.⁷

³ See e.g. the Implementation Report on the Strategy 2012-2015 (CM(2015)174), available at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016805a920a>.

⁴ CETS No 202.

⁵ CETS No.201.

⁶ CM/Del/Dec(2010)1098 /10.2abc available at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168045f5a9>.

⁷ European Committee of Social Rights (ECSR); Committee of the Parties to the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Committee); Committee for the Prevention of Torture (CPT); European Commission against Racism and Intolerance (ECRI); Advisory Committee on the Framework Convention for the Protection of National Minorities (ACFC); Group of Experts

INTERNATIONAL ASSOCIATION OF YOUTH AND FAMILY JUDGES AND MAGISTRATES

The previous Strategy (2012-2015) oversaw the organisation of more than 200 activities on children's rights, involving all 47 member States. Overall, children's rights were mainstreamed across the Council of Europe with 35 sectors and policy fields contributing to the previous Strategy's implementation.

Moreover, the views of children were sought and taken into account in the development of recommendations of the Committee of Ministers on children's rights,⁸ as well as in the development of child-targeted communication tools. Finally, those closest to the ground (including children, parents, professionals and policy-makers) were made more aware of the rights of the child through various accessible and attractive tools, audio-visual material, and campaigns of the Council of Europe, including the ONE in FIVE Campaign to stop sexual violence against children.⁹

2. The main challenges that children face today

In spite of this significant progress, there is much that remains to be done. In particular, the Strategy identified seven, key challenges for children's rights today.¹⁰ These are, namely:

- Poverty, inequality and exclusion
- Violence
- A justice system made for adults
- Challenges for families and parents
- Racism, hate speech and radicalisation
- Growing up in a digital world
- Migration¹¹

Poverty constitutes a large stumbling block to children's access to and inclusion within society. The economic crisis, in particular, has deeply affected children: according to Eurostat, children are the age group most at risk of poverty or social exclusion.¹² In a UNICEF report, 20 of the 32 Council of Europe member States monitored showed an increase in child poverty.¹³ Poverty has left deep scars within family units, and can, in turn, lead to further rights challenges, such as increased risk of violence, or the witnessing thereof.

According to a study specifically commissioned to inform the drafting of the Strategy, children identify **discrimination** as a key concern.¹⁴ Especially vulnerable groups are identified as children with disabilities, children in alternative care, and children from minorities, such as Roma; children deprived of their liberty, or children of imprisoned parents, as well as children living or working on the streets.

Children on the move or otherwise affected by migration face limited access to justice, education, social and health services, while unaccompanied and stateless children are rendered highly susceptible to human rights violations. There are also risks of inappropriate detention-use, subjection to abuse within asylum or immigration procedures, and the risk of trafficking and exploitation.

Violence was also a key concern voiced by children.¹⁵ The risk of violence is present in diverse settings, from schools to the digital world, and justice institutions to the home. Violence includes sexual, physical and mental violence, neglect and mistreatment, and violence against children in conflict.

Judicial systems remain adult-oriented institutions, which can be ill-adapted to the needs of the child. Guarantees for children's rights to be heard, informed, protected, and not discriminated against, are not fulfilled in practice.¹⁶ Restrictions of liberty are not always considered a last resort and for the shortest period possible, despite this being a guarantee of the UNCRC.

on Action against Trafficking in Human Beings (GRETA); European Commission for Democracy through Law (Venice Commission); Committee of Experts of the European Charter for Regional or Minority Languages (ECRML).

⁸ E.g. the Guidelines on child-friendly justice take into consideration the conclusions from approx. 3,800 children in 25 member States. Children's views were also taken into account in the drafting process of the Guidelines on child-friendly health, the Recommendation on child-friendly social services, and the Recommendation on participation of children and young people under the age of 18.

⁹ For instance, the TV spot and children's book *Wiko and the Hand+* were created within the framework of the ONE in FIVE Campaign targeting young children and their parents (www.underwearrule.org).

¹⁰ (n1), chapter 2.

¹¹ For the purposes of this entry, details are given of only several key challenges.

¹² (n1) [12].

¹³ UNICEF Office of Research (2014), *Children of the Recession: The impact of the economic crisis on child well-being in rich countries*, Innocenti Report Card 12.

¹⁴ Council of Europe (2015) *Challenges to children's rights today: What do children think?*, chapter 8. Available at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680643ded>.

¹⁵ *Ibid*, chapter 9.

¹⁶ EU Agency for Fundamental Rights (FRA) (2015), *Child-friendly justice . Perspectives and experiences of professionals on children's participation in civil and criminal judicial proceedings in 10 member States; and various ECHR and ECSR violations .* see e.g. European Court of Human Rights, Factsheet Children's Rights (March 2015).

3. Priority areas

In order to mount a focussed attack upon the identified challenges, the new Strategy pin-points five priority areas,¹⁷ all with grounding in the relevant and aforementioned human rights instruments. The areas are:

- Equal opportunities for all children
- Participation of all children
- A life free from violence for all children
- Child-friendly justice for all children
- Rights of the child in the digital environment¹⁸

Equal opportunities

Guaranteeing equal opportunities for children entails, firstly, protecting children's social rights. The European Social Charter¹⁹ is to be promoted as a set of minimum standards for protecting families and children, particularly within the context of economic austerity. Member states will be encouraged to follow and implement the relevant Committee of Ministers Recommendations on child-friendly social services,²⁰ on child-friendly healthcare,²¹ and on young people from disadvantaged neighbourhoods access to social rights;²² as well as the Recommendation of the Congress of Local and Regional Authorities on social reintegration of children living and/or working on the streets.²³ Member states could also take into account the Recommendation of the European Commission Investing in children: breaking the cycle of disadvantage,²⁴ and its work on integrated child protection mechanisms.²⁵ Moreover, member States will be supported in introducing and enhancing the quality and effect of child impact assessments.

Also vital to guaranteeing equal opportunities is the effective countering of **discrimination**, especially against children within vulnerable groups. In this regard, **children with disabilities** can be protected through the Council of Europe Recommendations on ensuring full inclusion of children and young persons with disabilities into

society,²⁶ and on the deinstitutionalisation and community living of children with disabilities.²⁷

The rights of **children in all forms of alternative care**, meanwhile, can be protected through implementation of the Committee of Ministers Recommendation on the rights of children living in residential institutions,²⁸ as well as the UN Guidelines for the Alternative Care of Children.²⁹

The rights of **children affected by migration** can be supported by member States upholding their obligations under the case-law of the European Court of Human Rights (ECtHR), the conclusions and decisions of the European Committee on Social Rights (ECSR), and the Committee for the Prevention of Torture (CPT), among other bodies. A co-ordinated and rights-based approach can also be fostered through implementation of the Recommendations on life projects for unaccompanied migrant minors,³⁰ on strengthening the integration of children of migrants and of immigrant background,³¹ and on the nationality of children.³² Meanwhile, the Parliamentary Assembly of the Council of Europe (PACE) continues to support the Campaign to End Immigration Detention of children.³³

Implementation of **Roma Children's** rights will continue to be addressed, including through strengthening access of Roma children to education, and through the use of trained Roma mediators and assistants.³⁴

Finally, **LGBT and intersex children's** rights can be protected and enhanced through implementation of the Recommendation on measures to combat discrimination on grounds of sexual orientation and gender identity.³⁵

Violence

The Council of Europe will continue to support the mandate of the Special Representative of the UN Secretary-General on Violence against Children.

In particular, addressing violence against children requires an **integrated approach**. This can be fostered through further implementation of the Recommendation on national strategies for the protection of children from violence.³⁶

To counter **sexual exploitation and sexual abuse**, the Council of Europe will continue to promote and monitor the implementation of, in

¹⁷ (n1), Chapter 3.

¹⁸ Areas one (equal opportunities), three (violence) and four (child-friendly justice) will constitute the main focus of this entry.

¹⁹ CETS No. 163 (Revised).

²⁰ CM/Rec(2011)12.

²¹ Guidelines on child-friendly healthcare, adopted by the Committee of Ministers on 21 September 2011.

²² CM/Rec(2015)3.

²³ Recommendation 253(2008) of the Council of Europe of Congress of Local and Regional Authorities.

²⁴ European Commission Recommendation Investing in Children: Breaking the cycle of disadvantage, 2013.

²⁵ See European Commission (2015), 9th European Forum on the rights of the child: Reflection Paper, Coordination and cooperation in integrated child protection systems.

²⁶ CM/Rec(2013)2.

²⁷ CM/Rec(2010)2.

²⁸ CM/Rec(2005)5.

²⁹ A/RES/64/142.

³⁰ CM/Rec(2007)9.

³¹ CM/Rec(2008)4.

³² CM/Rec(2009)13.

³³ See <http://website-pace.net/web/apce/children-in-detention>.

³⁴ See www.coe-romed.org.

³⁵ CM/Rec(2010)5.

³⁶ CM/Rec(2009)10.

particular, the Lanzarote Convention.³⁷ It will encourage ratification by member States that have yet to do so, and continue its monitoring work through the Committee of the Parties to the Lanzarote Convention.³⁸

The Council of Europe will continue to support a complete ban on **corporal punishment** and other degrading forms of punishment of children within all settings, including within the home. This will be facilitated through creating greater public awareness of children's rights, as well as the long-lasting damage that corporal punishment can have upon children, and through the promotion of positive parenting, in line with the Committee of Ministers Recommendation (2006)19.

Other settings in which children are particularly vulnerable to violence include schools, the home (domestic violence), in the context of trafficking, and within the arena of sports. The Council of Europe will support member States in addressing these forms of violence through the promotion of democratic and human rights-based education and education-materials,³⁹ several Conventions and their monitoring bodies, such as the Convention on preventing and combating violence against women and domestic violence (Istanbul Convention),⁴⁰ and the Convention on Action against Trafficking in Human Beings,⁴¹ as well as the Enlarged Partial Agreement on Sport of the Council of Europe (EPAS).⁴²

Child-friendly justice

The UNCRC contains several guarantees regarding the right of the child to be heard, and access to justice. This is also guaranteed under the ECHR right to a fair trial (Article 6). The UNCRC further obligates children in conflict with the law to be treated with dignity, taking into account the child's best interests.

The Council of Europe will support these guarantees through, firstly, promoting implementation of the Guidelines on **child-friendly justice**,⁴³ which can help member states to strengthen the access to, treatment in and participation of children in civil, administrative and criminal justice proceedings. A range of actions will be carried out in this regard, including an e-learning training course in co-operation with HELP

Network (Programme on Human Rights Education for Legal Professionals)⁴⁴ and other relevant bodies. Co-operation with regional and international actors will continue, and the Council of Europe will support ratification and implementation of the Third Optional Protocol to the UNCRC on a Communications Procedure.

Child **deprivation of liberty** should be a last resort, for the shortest time possible, and in a manner which promotes the child's reintegration into society. According to the Strategy, detention conditions should be improved in line with Council of Europe Standards, and member states' implementation of the European Rules for juvenile offenders subject to sanctions or measures⁴⁵ will continue to be supported. The situation of children whose parents are in detention will also be considered. Finally, the Council of Europe stands ready to support, as appropriate, the UN Global Study on Children Deprived of Liberty,⁴⁶ especially with regard to the European region.

Children's rights in the family will continue to be promoted through support for implementation of the European Convention on the Adoption of Children (Revised),⁴⁷ as well as the Committee of Ministers Recommendations on family mediation,⁴⁸ on positive parenting policies,⁴⁹ and on preventing and resolving disputes on child relocation.⁵⁰ Particular emphasis will be placed upon the assessment processes of the best interests of the child within family matters,⁵¹ including within the context of removal from parental care, placement and reunification decisions.⁵² The child's best interests will also be considered in Council of Europe action regarding new family forms and bioethics, especially with regard to surrogacy and donor-assisted human reproduction.

⁴⁴ See <http://help.ppa.coe.int/>.

⁴⁵ CM/Rec(2008)11.

⁴⁶ See UN General Assembly Resolution A/C.3/69/L.24/Rev.1, paragraph 51.d.

⁴⁷ (n4).

⁴⁸ Rec(98)1.

⁴⁹ CM/Rec(2006)19. See also Recommendation Rec(98)8 on children's participation in family and social life.

⁵⁰ CM/Rec(2015)4.

⁵¹ See The Council of Europe, *The best interests of the child – A dialogue between theory and practice* (2016, Council of Europe Publishing, Strasbourg Cedex) available at: <https://book.coe.int/eur/en/children-s-rights-and-family-law/6862-the-best-interests-of-the-child-a-dialogue-between-theory-and-practice.html>.

⁵² See Parliamentary Assembly Resolution 2049 (2015) on Social services in Europe: legislation and practice of the removal of children from their families in Council of Europe member States.

³⁷ (n5).

³⁸ See <http://www.coe.int/en/web/children/lanzarote-committee>.

³⁹ In line with the Charter on Education for Citizenship and Human Rights Education, CM/Rec(2010)7.

⁴⁰ CETS No. 210, monitored by GREVIO.

⁴¹ CETS No. 197, monitored by GRETA.

⁴² CM/Res(2007)8; and see <http://pjp-eu.coe.int/en/web/pss>.

⁴³ Guidelines on child friendly justice (n6). See also Parliamentary Assembly Resolution 2010(2014) on Child-friendly juvenile justice: from rhetoric to reality, and the orientations on promoting and supporting the implementing of the Guidelines on child-friendly justice by the European Committee on Legal Co-operation (CDCJ(2014)15).

4. Implementation

The Strategy will be implemented with the help of a newly established Ad hoc Committee on the Rights of the Child (CAHENF),⁵³ which is answerable to the Committee of Ministers. CAHENF will develop an action plan, and submit annual reports. It will focus on the main methods of delivery for the strategy, namely:

- Making the existing standards work for children
- Involving all relevant stakeholders
- Communication and outreach work
- Evaluating performance

Given the wealth of existing standards and guidelines, the new Strategy will focus on **effective implementation**, rather than standard-creation. It will do so through increased efforts to support co-operation activities in member States, and through mainstreaming children's rights across all relevant projects and activities within other sectors of the Council of Europe. It will continue its thematic and country-based monitoring of conventions, and will support member States to follow up the results of monitoring activities.

Implementation is dependent upon the **cooperation of all stakeholders**, which includes member States, international organisations, civil society, the academic network, professionals and decision-makers, the private sector, and children. To this end, the Ad hoc Committee will be composed of representatives of the 47 member states, as well as other relevant actors.

On the basis of a Joint Declaration of 2007, both UNICEF and the Council of Europe seek to reinforce their co-operation. Other partners include the Special Representative of the UN Secretary-General on Violence against Children, the UN Special Rapporteur on the sale of children, child prostitution and child pornography, the Office of the UN High Commissioner on Human Rights, and the Office of the UN High Commissioner on Refugees. The Strategy also highlights the Council of Europe's commitment to contribute towards the implementation of the UN 2030 Agenda for Sustainable Development.⁵⁴

The European Union, and in particular the European Commission and the Fundamental Rights Agency (FRA), will continue to be key partners in promoting Council of Europe Standards.

Other vital players include Ombudspersons for Children and their European Network (ENOC), international and national NGOs.

Raising awareness of children's rights among children, parents, carers, professional and policy makers will be a priority. In this regard, the Council of Europe will rely heavily upon the efforts of its cooperative stakeholders, and further develop the website www.coe.int/children into a comprehensive hub for tools and information on children's rights.

5. Launching the Strategy

The Strategy was adopted by the Committee of Ministers on 2 March 2016, and launched at a high-level conference⁵⁵ in Sofia, Bulgaria on 5-6 April 2016 during the Bulgarian Chairmanship of the Committee of Ministers. It is thereby called the **Sofia Strategy**.

The conference provided an opportunity for an in-depth discussion on the five priority areas among and for stakeholders, as well as for the identification of methods for implementing the Strategy over the coming years. The conference was held under the patronage of the President of Bulgaria and attended by the President of Malta and many ministers and other high-level representatives. Additionally, 10 young delegates took an active role in the conference as rapporteurs in all thematic sessions.⁵⁶

The highly successful conference is a reflection both of the transversality and prominence that children's rights have gained across the Council of Europe region. If this level of commitment and participation is an indication of the vigour with which the Strategy will be implemented, then one can indeed look towards a brighter future for children across Europe.

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Tara Beattie, Council of Europe Trainee, incoming PhD student at the Durham Law School (AHRC Scholar)

⁵³ See <http://www.coe.int/en/web/children/cahenf> and CM(2015)171-final.

⁵⁴ UNGA A/Res/70/1 of 25 September 2015, Transforming our world; the 2030 Agenda for Sustainable Development.

⁵⁵ See <http://www.coe.int/en/web/children/sofia2016>.

⁵⁶ See Council of Europe (2016) High-Level Launching Conference Report, available at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680658964>.